

## Part 3 Cruelty to Animals

### 76-9-301 Cruelty to animals.

(1) As used in this section:

(a)

(i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b)

(i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section 23-13-2, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including Division of Wildlife Resources rules; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

(E) swine;

(F) equines;

(G) camelidae;

- (H) ratites; or
- (I) bison;
- (ii) domesticated elk, as defined in Section 4-39-102; or
- (iii) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic poultry, raised, kept, or used for agricultural purposes.
- (g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:
  - (i) appropriate and essential food and water;
  - (ii) adequate protection, including appropriate shelter, against extreme weather conditions; and
  - (iii) other essential care.
- (h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.
- (2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:
  - (a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;
  - (b) abandons an animal in the person's custody;
  - (c) injures an animal;
  - (d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or
  - (e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.
- (3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:
  - (a) a class B misdemeanor if committed intentionally or knowingly; and
  - (b) a class C misdemeanor if committed recklessly or with criminal negligence.
- (4) A person is guilty of aggravated cruelty to an animal if the person:
  - (a) tortures an animal;
  - (b) administers, or causes to be administered, poison or a poisonous substance to an animal; or
  - (c) kills an animal or causes an animal to be killed without having a legal privilege to do so.
- (5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:
  - (a) a class A misdemeanor if committed intentionally or knowingly;
  - (b) a class B misdemeanor if committed recklessly; and
  - (c) a class C misdemeanor if committed with criminal negligence.
- (6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.
- (7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:
  - (a) by a licensed veterinarian using accepted veterinary practice;
  - (b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;
  - (c) permitted under Section 18-1-3;
  - (d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or
  - (e) by a person who humanely destroys any apparently abandoned animal found on the person's property.
- (8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

- (a) the judgment of a veterinarian of the animal's nonrecoverable condition;
  - (b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;
  - (c) the consent from the owner of the animal to the destruction of the animal; or
  - (d) a reasonable conclusion that the animal's suffering is beyond recovery, through the person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.
- (9) This section does not affect or prohibit:
- (a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;
  - (b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or
  - (c) the lawful hunting of, fishing for, or trapping of, wildlife.
- (10) County and municipal governments may not prohibit the use of an electronic locating or training collar.
- (11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:
- (a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;
  - (b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;
  - (c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and
  - (d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.
- (12) This section does not prohibit the use of animals in lawful training.
- (13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Amended by Chapter 329, 2015 General Session

**76-9-301.1 Dog fighting -- Training dogs for fighting -- Dog fighting exhibitions.**

- (1) It is unlawful for any person to:
- (a) own, possess, keep, or train a dog with the intent to engage it in an exhibition of fighting with another dog;
  - (b) cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;
  - (c) tie, attach, or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or
  - (d) permit or allow any act which violates Subsection (1)(a), (b), or (c) on any premises under his charge; or to control, aid, or abet any such act.
- (2) Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended

for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of Subsections (1)(b) and (c).

- (3) A person who violates Subsection (1) is guilty of a third degree felony, and any fine imposed may not exceed \$25,000.
- (4) It is unlawful for a person to knowingly and intentionally be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this section. A person who violates this subsection is guilty of a class B misdemeanor.
- (5) Nothing in this section prohibits any of the following:
  - (a) the use of dogs for management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;
  - (b) the use of dogs for hunting; or
  - (c) the training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

Amended by Chapter 324, 2010 General Session

### **76-9-301.3 Game fowl fighting.**

- (1) As used in this section:
  - (a) "Game fowl" means a fowl reared or used for fighting other fowl.
  - (b) "Promote" means to engage in promoting, producing, or staging events or activities that involve game fowl fighting.
- (2) It is unlawful for a person to:
  - (a) intentionally cause a game fowl to fight with or attack another game fowl for the purpose of entertainment, sport, or contest; or
  - (b) promote any activity that involves game fowl fighting, including promoting an activity that is a violation of Subsection (2)(a).
- (3) A person who violates Subsection (2) is, upon conviction, guilty of:
  - (a) a class B misdemeanor for the first violation;
  - (b) a class A misdemeanor for the second violation; or
  - (c) a third degree felony for a third or subsequent violation.
- (4) This section does not prohibit the lawful use of livestock by the livestock owner, an employee or agent of the livestock owner, or a person in the lawful custody of livestock.

Enacted by Chapter 329, 2015 General Session

### **76-9-301.5 Spectator at organized animal fighting exhibitions.**

It is unlawful for a person to knowingly be present as a spectator at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by Subsections 76-9-301(2)(d) and (e), or to be present at such exhibition, regardless of whether any entrance fee has been charged. A person who violates this section is guilty of a class B misdemeanor.

Amended by Chapter 292, 2008 General Session

### **76-9-301.6 Dog fighting exhibition -- Authority to arrest and take possession of dogs and property.**

- (1) A peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications, may enter any place, building, or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition and, without a warrant, arrest all persons present.
- (2)
  - (a) Notwithstanding the provisions of Section 76-9-305, any authorized officer who makes an arrest under Subsection (1) may lawfully take possession of all dogs, paraphernalia, implements, or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by Subsection 76-9-301(2)(e) or Section 76-9-301.1.
  - (b) The officer, at the time of the taking of property pursuant to Subsection (2)(a), shall state his name and provide other identifying information to the person in charge of the dogs or property taken.
- (3)
  - (a) After taking possession of dogs, paraphernalia, implements, or other property or things under Subsection (2), the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this section.
  - (b) The affidavit shall include:
    - (i) the name of the person charged in the complaint;
    - (ii) a description of all property taken;
    - (iii) the time and place of the taking of the property;
    - (iv) the name of the person from whom the property was taken;
    - (v) the name of the person who claims to own the property, if known; and
    - (vi) a statement that the officer has reason to believe and believes that the property taken was used or employed, or was to be used or employed, in violation of Section 76-9-301 or 76-9-301.1, and the grounds for the belief.
- (4)
  - (a) The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made.
  - (b) The person designated in Subsection (4)(a) shall assume immediate custody of the property, and retain the property until further order of the court.
  - (c) Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or otherwise disposed of, as the court may order.
  - (d) If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner.

Amended by Chapter 292, 2008 General Session

**76-9-301.7 Cruelty to animals -- Enhanced penalties.**

- (1) As used in this section, "conviction" means a conviction by plea or by verdict, including a plea of guilty or no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance with the plea in abeyance agreement.
- (2) Except as provided in Subsection (4), a person who commits any violation of Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) within the state and on at least one previous occasion has been convicted of violating Section 76-9-301, Section 76-9-301.5, or Subsection 76-9-301.1(4) shall be subject to an enhanced penalty as provided in Subsection (3).

- (3) The enhanced degree of offense for offenses committed under this section are:
  - (a) if the offense is a class C misdemeanor, it is a class B misdemeanor; and
  - (b) if the offense is a class B misdemeanor, it is a class A misdemeanor.
- (4) The penalty enhancements described in this section do not apply to a conviction for the offense described in Subsection 76-9-301(6).

Amended by Chapter 292, 2008 General Session

**76-9-301.8 Bestiality -- Definitions -- Penalty.**

- (1) A person commits the crime of bestiality if the actor engages in any sexual activity with an animal with the intent of sexual gratification of the actor.
- (2) For purposes of this section only:
  - (a) "Animal" means any live, nonhuman vertebrate creature, including fowl.
  - (b) "Sexual activity" means physical sexual contact:
    - (i) between the actor and the animal involving the genitals of the actor and the genitals of the animal;
    - (ii) the genitals of the actor or the animal and the mouth or anus of the actor or the animal; or
    - (iii) through the actor's use of an object in contact with the genitals or anus of the animal.
- (3) A crime of bestiality is a class B misdemeanor.

Amended by Chapter 302, 1999 General Session

**76-9-304 Allowing vicious animal to go at large.**

Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal, while at large, or while not kept with ordinary care, causes injury to another animal or to any human being who has taken reasonable precaution which the circumstances permitted, is guilty of a class B misdemeanor unless the animal causes the death of a human being, whereupon the owner is guilty of a felony of the third degree.

Amended by Chapter 87, 1977 General Session

**76-9-305 Officer's authority to take possession of animals -- Lien for care.**

- (1) Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission from the owner may destroy them.
- (2) Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court upon proof that the owner has been notified of the lien and amount due, at least five days prior, shall order the animal sold at public auction or destroyed.
- (3) Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal the officer shall obtain the judgment to the effect of a veterinarian, or of two reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

Amended by Chapter 87, 1977 General Session

**76-9-306 Police service animals -- Causing injury or interfering with handler -- Penalties.**

- (1) As used in this section:

- (a) "Handler" means a law enforcement officer who is specially trained, and uses a police service animal during the course of the performance of his law enforcement duties.
  - (b) "Police service animal" means any dog or horse used by a law enforcement agency, which is specially trained for law enforcement work, or any animal contracted to assist a law enforcement agency in the performance of law enforcement duties.
- (2) It is a third degree felony for a person to intentionally:
- (a) cause bodily injury or death to a police service animal;
  - (b) engage in conduct likely to cause bodily injury or death to a police service animal;
  - (c) lay out, place, or administer any poison, trap, substance, or object which is likely to produce bodily injury or death to a police service animal; or
  - (d) offer or agree with one or more persons to engage in or cause the performance of an act which constitutes a violation of this section.
- (3) It is a class A misdemeanor for a person to intentionally or knowingly:
- (a) taunt, torment, strike, or otherwise assault a police service animal;
  - (b) throw any object or substance at, or in the path of, a police service animal;
  - (c) interfere with or obstruct a police service animal, or attempt to, or interfere with the handler of the animal in a manner that inhibits, restricts, or deprives the handler of his control of the animal;
  - (d) release a police service animal from its area of control, such as a vehicle, kennel, or pen, or trespass in that area; or
  - (e) place any food, object, or substance into a police service animal's area of control without the permission of the handler.
- (4) A police service animal is exempt from quarantine or other animal control ordinances if it bites any person while under proper police supervision or routine veterinary care. The law enforcement agency and the animal's handler shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.
- (5) In addition to any other penalty, a person convicted of a violation of this section is liable for restitution to the owning or employing law enforcement agency or individual owner of the police service animal for the replacement, training, and veterinary costs incurred as a result of the violation of this section.

Amended by Chapter 192, 2000 General Session

#### **76-9-307 Injury to service animals -- Penalties.**

- (1) As used in this section:
- (a) "Disability" has the same meaning as defined in Section 62A-5b-102.
  - (b) "Search and rescue dog" means a dog:
    - (i) with documented training to locate persons who are:
      - (A) lost, missing, or injured; or
      - (B) trapped under debris as the result of a natural or man-made event; and
    - (ii) affiliated with an established search and rescue dog organization.
  - (c) "Service animal" means:
    - (i) a service animal as defined in Section 62A-5b-102; or
    - (ii) a search and rescue dog.
- (2) It is a class A misdemeanor for a person to knowingly, intentionally, or recklessly cause substantial bodily injury or death to a service animal.

- (3) It is a class A misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from causing:
  - (a) any substantial bodily injury or the death of a service animal; or
  - (b) the service animal's subsequent inability to function as a service animal as a result of the animal's attacking, chasing, or harassing the service animal.
- (4) It is a class B misdemeanor for a person to chase or harass a service animal.
- (5) It is a class B misdemeanor for a person who owns, keeps, harbors, or exercises control over an animal to knowingly, intentionally, or recklessly fail to exercise sufficient control over the animal to prevent it from chasing or harassing a service animal while it is carrying out its functions as a service animal, to the extent that the animal temporarily interferes with the service animal's ability to carry out its functions.
- (6)
  - (a) A service animal is exempt from quarantine or other animal control ordinances if it bites any person while it is subject to an offense under Subsection (2), (3), (4), or (5).
  - (b) The owner of the service animal or the person with a disability whom the service animal serves shall make the animal available for examination at any reasonable time and shall notify the local health officer if the animal exhibits any abnormal behavior.
- (7) In addition to any other penalty, a person convicted of any violation of this section is liable for restitution to the owner of the service animal or the person with a disability whom the service animal serves for the replacement, training, and veterinary costs incurred as a result of the violation of this section.
- (8) If the act committed under this section amounts to an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 110, 2009 General Session